IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.R. No. 3128 of 2007
Date of Decision: August 31,2007

Loven Singla .....*Petitioner*

Versus

Om Parkash & Others .....*Respondents*

Coram: *Hon'ble Mr.Justice Rajesh Bindal*

Present: Mr.D.D.Bansal,Advocate for the petitioner
Mr.S.K.Jain,Advocae for respondent No.2
None for respondent No.3
Mr.Ishwar Lal, Advocate for respondent No.4

Rajesh Bindal, J.

The prayer made in the present petition, filed under Article 227 of the Constitution of India, is for setting aside of order dated 25.5.2007 passed by the Civil Judge, Senior Division Mansa.

The relief claimed by the petitioner is that he should be permitted to cross-examine the witnesses produced by the respondents-defendants and also to lead evidence in rebuttal. The prayer was declined vide impugned order by the trial Court.

Heard counsel for the parties.

After going through the facts of the case, I find the prayer made by the petitioner to be reasonable and legally sustainable only to the extent that he is entitled to cross-examine the witnesses produced by the respondents-defendants. However, he would not be entitled to lead any evidence in rebuttal. From the facts on record, it is borne out that the evidence of the parties was, in fact, complete. Vide order dated 23.12.2005 passed in Civil Revision No. 2499 of 2004, the matter was remitted back by this Court by framing some additional issues. On additional issues, the

petitioner led evidence, however, the respondents did not lead any evidence on those additional issues and stated that the evidence already led by them be read as such. It was at this stage, the petitioner made prayer that he be permitted to cross-examine the witnesses already examined by the respondents-defendants in the light of the additional issues framed by this Court and also to lead evidence in rebuttal.

As far as the prayer with regard to the cross-examination of the witnesses is concerned, in the light of the fact that this Court directed framing of additional issues and remitted the matter back. He would certainly be entitled to cross-examine the witnesses already examined by the respondents-defendants. The witnesses produced by the respondents could not possibly be cross-examined in the light of the issues which were additionally framed by this Court . It is also not disputed by the counsel for the parties, apearing before this Court, that it is only respondent No.2 before this Court who had led evidence before the trial Court. As far as the prayer made by the petitioner for permission to lead evidence in rebuttal is concerned, the same cannot be accepted simply for the reason that the onus of the issues on which the petitioner-plaintiff is seeking permission to lead evidence in rebuttal is on the petitioner-plaintiff and on those issues, once the evidence is closed in affirmative, there is no occasion for permitting the petitioner-plaintiff to lead evidence in rebuttal.

Accordingly, the order passed by the trial Court is modified to the extent that the petitioner-plaintiff shall be entitled to cross-examine the witnesses already produced by respondent No.2 in the light of the additional issues framed by this Court.

Keeping in view the fact that the case is lingering on in the trial Court for quite some time, it is directed to expedite the trial of the suit.

The revision petition is disposed of accordingly.

(Rajesh Bindal)
Judge

August 31, 2007
arya